

**United States District Court
District of Massachusetts
Office of the Clerk**



TRANSCRIPT REDACTION POLICY - AMENDED MAY 5, 2008

INTRODUCTION

The United States District Court for the District of Massachusetts shall make transcripts of court proceedings, filed on and after May 5, 2008, available through its electronic case files (CM/ECF) system.

The primary purpose of the Transcript Redaction Policy is to provide guidance to the Court's Official Court Reporters and the attorneys of this bar when preparing and reviewing transcripts of official court proceedings to be filed with the Court.

AUTHORITY

At its September 2007 session, the Judicial Conference approved a new policy regarding the availability of transcripts of court proceedings.

In addition, amendments to the Federal Civil and Criminal Rules of Procedure implementing requirements of the E-Government Act of 2002 to protect the privacy and security of publicly available electronic filings took effect on December 1, 2007. The amendments to Rule 5.2 of FRCvP and Rule 49.1 of FRCrP require that personal identification information (social security numbers, names of minor children, financial account numbers, dates of birth, and, in criminal cases, home addresses) be redacted from documents filed with the Court.

POLICY DESCRIPTION

The effective date of this Policy is May 5, 2008.

It applies only to transcripts of proceedings held before a Judicial Officer of this Court, not depositions taken outside of court or proceedings of state courts or other jurisdictions.

It establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made electronically available to the general public.

It does not change any rules or policies with respect to sealing or redaction of court records for any other purpose.

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It does not affect or limit the right of any party (or any other person or entity) to order production of a transcript on an expedited basis. This policy does not affect any court rules or ruling requiring the sealing of materials or the protection of sealed materials.

There is no obligation on the part of the Office of the Clerk to perform any redaction. It is the responsibility of counsel to advise the court reporter what to redact, and the responsibility of the court reporter to perform the redaction.

Redaction responsibilities apply to counsel, even if the requestor of the transcript is a judge or a member of the public or media.

Unless otherwise ordered by the Court, counsel shall review the following portions of the transcript:

- opening and closing statements made on the party's behalf;
- statements of the party;
- the testimony of any witnesses called by the party; and
- any other portion of the transcript as ordered by the Court.

PROCEDURES

Notice of Intent to Redact

Within seven (7) business days of the filing of an official court transcript, each party wishing to redact a transcript shall inform the Court by filing (via CM/ECF) with the Clerk's Office a "Notice of Intent to Redact." A sample form is available on the Court's website and is attached to this policy.

Redaction Request

If a redaction is requested, unless the Court shall otherwise order, counsel shall file (via CM/ECF) with the Clerk's Office, a "Redaction Request" within twenty one (21) days from the filing of the transcript, indicating where the personal identifiers appear in the transcript by page and line, and how they are to be redacted. A sample form is available on the Court's website and is attached to this policy.

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This procedure is limited to the redaction of the specific personal data identifiers listed below:

- Social security numbers to the last four digits;
- Financial account numbers to the last four digits;
- Dates of birth to the year;
- Names of minor children to the initials; and
- Home addresses to the city and state.

If counsel files a "Notice of Intent to Redact," but later determines that no redaction is necessary, counsel shall file a "Withdrawal of Notice of Intent To Redact."

If counsel fails to timely file a Redaction Request or Motion to Extend Time or a Withdrawal of the Intent to Redact, the Office of the Clerk shall issue an Order to Show Cause requiring the attorney to file the redaction request, a notice of withdrawal of the intent to redact, or show cause why the transcript should not be released to the public after ninety (90) calendar days from the date the original transcript was filed.

Additional Copies of Transcript Purchased

The court reporter shall notify the court reporter supervisor if additional copies of the transcript are purchased by other counsel of record. The court reporter supervisor will provide electronic access for those additional attorneys during the ninety (90) day period.

Redacted Transcript

If a redaction is requested, the court reporter shall file the redacted transcript with the Office of the Clerk within thirty one (31) days after the filing of the original transcript. The title page of the redacted transcript shall indicate that it is a redacted transcript by including "REDACTED TRANSCRIPT" immediately below the case caption and before the volume number and the name and title of the Judge.

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Sealed and Partially Sealed Transcripts

If a transcript is to be filed under seal, the court reporter shall submit that transcript clearly labeled as "SEALED." The court reporter supervisor shall electronically file the PDF document with the appropriate restrictive setting.

If only a portion of a transcript has been ordered sealed, the court reporter shall extract the sealed portions from the original transcript as a separate PDF document (clearly labeled as "SEALED"). The remaining public portion of the transcript shall be created and both PDF documents, clearly labeled, submitted to the court reporter supervisor for electronic filing.

Counsel shall review the remaining public portion of the transcript for any necessary redactions.

Requests for Additional Redactions

Further redactions require the filing of a "Motion for Redaction of Electronic Transcript." Until the Court has ruled on any such motion, the transcript shall not be electronically available, even though the ninety (90) day restriction period may have expired.

Remote Public Access to Transcripts

If the original transcript is filed without redaction, that original transcript shall be remotely electronically available through PACER after ninety (90) calendar days.

If a redacted transcript is filed with the Court, that redacted transcript shall be remotely electronically available through PACER ninety (90) calendar days from the date of filing of the original transcript. The original transcript shall not be made publicly available.

CJA Panel Attorneys

An attorney who is serving as appointed "standby" counsel for a *pro se* litigant must review the transcript as if the *pro se* party were his/her client. If an attorney represents a client pursuant to the Criminal Justice Act (CJA), including serving as standby counsel, the attorney conducting the review of the transcript is entitled to compensation under the CJA for functions reasonably

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performed to fulfill that obligation, and for reimbursement of reasonable expenses related to the transcript review.

PACER Fees

PACER fees shall be applied both during and after the ninety (90) day restriction period. Charges shall accrue for all pages of the transcript. The user shall incur PACER charges each time the transcript is accessed even though he/she may have purchased it from the court reporter and obtained remote access through CM/ECF. Unlike other documents filed electronically, there is no 'free look' for transcripts.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Plaintiff(s)

vs.

Docket No. : _____

Defendant(s)

NOTICE OF INTENT TO REQUEST REDACTION

Notice is hereby given that a Redaction Request shall be filed electronically with the Court, via CM/ECF, within 21 days from the filing of the transcript. The transcript for proceedings on _____ was transcribed by _____, Official Court Reporter.

Submitted by

(Party name)

Through Counsel:

Date: _____

/s/ _____

BBO: _____

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system shall be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies shall be sent to those indicated as non-registered participants on _____.

/s/ _____

NOTE: This Notice should be filed electronically using 'Notice of Intent to Request Redaction' found under the Other Documents menu in CM/ECF. It will be available only to Court staff and case participants.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Plaintiff(s)

vs.

Docket No. : _____

Defendant(s)

REDACTION REQUEST

Now comes _____, by counsel and submits this Redaction Request. The transcript for proceedings on _____ was transcribed by _____, Official Court Reporter. The Transcript Redaction Policy requires redaction of the following personal identifiers from the transcripts made electronically available:

- Social security numbers to the last four digits,
- Financial account numbers to the last four digits,
- Dates of birth to the year,
- Names of minor children to the initials, and
- Home addresses to the city and state.

It is requested that consistent with the Court's Transcript Redaction Policy, the following information be redacted prior to the transcript being made remotely electronically available:

Document # of Transcript (from docket)	Page	Line(s)	Identifier (Example: SSN 009-99-9999)	Reaction Requested (Example: SSN XXX-XX-1234)	Court Reporter

(Use additional sheets if necessary)

The undersigned understands that redactions other than the personal identifiers listed in the Transcript Redaction Policy require a separate Motion for Additional Redactions be filed within 21 days of the filing of the transcript and requires court approval.

/s/ _____
Attorney for _____
Date: _____

NOTE: This Request should be filed electronically using 'Redaction Request - Transcript' found under the Other Documents menu in CM/ECF. It will be available only to Court staff and case participants.